

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;
Robert G. Taub, Vice Chairman;
Mark Acton;
Tony Hammond; and
Nanci E. Langley

Competitive Product Prices
Global Expedited Package Services Contracts
Non-published Rates

Docket No. MC2013-27

Competitive Product Prices
Global Expedited Package Service Contracts
Non-published Rates 4 (MC2013-27)

Docket No. CP2013-35

ORDER APPROVING REVISIONS TO MODEL CONTRACT

(Issued September 16, 2013)

I. INTRODUCTION

The Postal Service seeks approval of proposed revisions to the model contract for GEPS—NPR 4 agreements.¹ For the reasons stated below, the Commission approves the revisions.

¹ Notice of the United States Postal Service Concerning Revisions to Global Expedited Package Services—Non-Published Rates 4 Model Contract, August 28, 2013 (Notice). The Commission provided public notice of the Notice and addressed other administrative steps in Order No. 1823, Notice and Order Concerning Proposed Revisions to Model Contract, August 30, 2013.

II. BACKGROUND

The Commission approved the addition of GEPS—NPR 4 to the competitive product list, along with a model contract, following consideration in companion Docket Nos. MC2013-27 and CP2013-35.² In this proceeding, the Postal Service proposes two sets of revisions to the model contract and provides a model contract incorporating the revisions in Attachment 1 to its Notice.

The first set revises Article 15 (captioned “Postage Updates”) by: (1) modifying paragraph 1; (2) deleting paragraph 2; and (3) renumbering the remaining paragraphs³ Notice at 1. The Postal Service states that these changes reflect its interest in allowing rates in each GEPS—NPR 4 agreement to remain unchanged throughout the term of the agreement. *Id.* Under the current model contract, discounted rates are linked to published rates so that when published rates change, the discounted rates change automatically. The amendment severs that link. The Postal Service states that these revisions do not result in any changes in the revenue estimates provided in the original dockets because no estimates of published rates were included in the financial workpapers for the GEPS—NPR 4 model contract. *Id.* at 1-2.

The Postal Service characterizes the other set of revisions as minor. *Id.* at 2. One is a template-wide replacement of the product name “Express Mail International” with “Priority Mail Express International” pursuant to the Commission’s approval of this nomenclature change in another docket.⁴ *Id.* The other is a revision to the last

² See Docket Nos. MC2013-27 and CP2013-35, Order No. 1625, Order Adding Global Expedited Package Services-Non-Published Rates 4 (GEPS-NPR 4) to the Competitive Product List, January 16, 2013 (Order No. 1625). The original model contract was included in Docket Nos. MC2013-27 and CP2013-35, Request of the United States Postal Service to Add Global Expedited Package Services—Non-Published Rates 4 (GEPS—NPR 4) to the Competitive Products List and Notice of Filing GEPS-NPR 4 Model Contract and Application for Non-Public Treatment of Materials Filed Under Seal, December 21, 2012, Attachment 4.

³ Paragraph Nos. 3, 4, and 5 in the original model contract are redesignated as Paragraph Nos. 2, 3, and 4.

⁴ See Order No. 1713, Docket No. MC2013-45, Order Approving Minor Classification Change, May 13, 2013.

sentence of Article 12 (captioned “Term of the Agreement”). The revised sentence (with new text italicized) reads as follows: “[t]he Agreement shall remain in effect for one calendar year from the Effective Date *or the last day of the month which falls one calendar year from the Effective Date, whichever is later*, unless terminated sooner pursuant to Article 13 or Article 14.” *Id.* at 3 (emphasis added). The Postal Service states this revision is intended to simplify reporting of costs and revenues. *Id.*

Effective dates of proposed revisions. The Postal Service intends to include the set of changes affecting Article 15 in all GEPS—NPR 4 contracts issued after August 28, 2013 (the date of its Notice in this docket). *Id.* at 2. It intends to offer existing GEPS—NPR 4 and GEPS 3 customers a modification with the Article 15 revisions and, if the offer is accepted, to file signed modifications in the applicable dockets. *Id.* The Postal Service indicates it will file signed modifications in the applicable dockets. *Id.* (footnote omitted). The Postal Service will include the other set of changes in post August 28, 2013 GEPS—NPR 4 agreements. *Id.*

III. COMMENTS

The Public Representative filed comments on September 11, 2013.⁵ No other comments were received. The Public Representative’s review of the proposed revisions leads him to recommend Commission approval of the revised model contract. PR Comments at 3. He agrees with the Postal Service’s assessment that the changes should improve customer satisfaction and simplify the reporting of financial results. *Id.*

However, the Public Representative considers the Postal Service’s decision to use Docket No. CP2013-35 as the vehicle for filing proposed changes to the model contract an issue of first impression for the Commission, and offers several related observations. *Id.* One is that use of the “CP” designation for the instant filing is

⁵ Public Representative Comments on Postal Service Notice Concerning Revisions to Global Expedited Package Services—Non-Published Rates 4 Model Contract, September 11, 2013. (PR Comments). See also Motion of Public Representative for Late Acceptance of Reply Comments, September 11, 2013 (Motion). The Motion is granted.

misplaced because the “CP” designation is reserved for price changes applicable to competitive products. *Id.* He states that by the Postal Service’s own admission, the changes to the GEPS—NPR 4 model contract do not implicate a change in prices for mailers or otherwise change the revenue estimates of the financial model. *Id.*

As an alternative, the Public Representative recommends that absent a change in prices, the Postal Service file future changes to the GEPS—NPR 4 model contract in Docket No. MC2013-27. *Id.* In support of this approach, he observes that “MC” dockets are typically used for changes in the text of the Mail Classification Schedule, which governs the terms and conditions of mail service. *Id.* He asserts that the text of the GEPS—NPR 4 model contract serves an analogous and complementary function of establishing the obligations and responsibilities of both the Postal Service and the mailer. *Id.* at 3-4. He also states that using Docket No. MC2013-27 for all future changes to the GEPS—NPR 4 model contract would facilitate Commission review and tracking as they would be considered in the same docket used to consider the model contract when the GEPS—NPR 4 product was added to the competitive product list. *Id.* at 4. However, the Public Representative suggests that the Postal Service’s choice of a docket designation may have been motivated by an interest in the 15-day period for Commission review for “CP” dockets (as opposed to the open-ended period for “MC” dockets), so he proposes that if the Commission directs the Postal Service to file future revisions under the “MC” designation, it express its willingness to review the revisions within 15 days. *Id.* at 3 n.8.

IV. COMMISSION ANALYSIS

The Postal Service proposes revisions to the model contract that, among other things, eliminates the linkage between GEPS—NPR 4 prices and published prices for Express Mail International, Priority Mail International, and Global Express Guaranteed. The proposed changes to Article 15 are intended “to allow the rates in each GEPS—

NPR 4 contract to remain consistent throughout the contract term.” Notice at 1. The revisions do not result in any changes to current prices.

Based on its review of the Postal Service’s proposal and the Public Representative’s Comments, the Commission approves the revisions for use in the model contract in GEPS—NPR 4 agreements filed after August 28, 2013. The Commission also authorizes the Postal Service to offer Article 15 related modifications to customers who entered into GEPS—NPR 4 agreements based on the original model contract on or before August 28, 2013 and to GEPS 3 customers. The Commission directs the Postal Service to file signed modifications in the corresponding applicable docket.

Given the nature of the revisions, the Public Representative contends that the Notice should have been filed in the underlying MC docket, Docket No. MC2013-27. The claim has merit since the revisions are to the model contract, but do not result in changes to any current prices. That the Notice was filed solely in Docket No. CP2013-35, however, does not preclude the Commission from considering the revisions as filed. To maintain a complete and unified record of changes to the original model contract, the Commission will also issue the instant Order in Docket No. MC2013-27.

For clarification, when the Postal Service proposes changes to model contracts that do not result in changes to current prices, it should file in the applicable “MC” docket. If the revisions include price changes, it should also file in the applicable “CP” docket.

V. ORDERING PARAGRAPHS

It is ordered:

1. The Commission approves the proposed revisions to the Docket Nos. MC2013-27 and CP2013-35 model contract identified in the Notice of the United States Postal Service Concerning Revisions to Global Expedited Package Services—Non-Published Rates 4 Model Contract, August 28, 2013.

2. With respect to GEPS—NPR 4 agreements entered into on or before August 28, 2013 and GEPS 3 agreements, the Commission authorizes the Postal Service to offer Article 15 related modifications and directs the Postal Service to file signed modifications in the dockets corresponding to each customer's original agreement.
3. Notice of changes to model contracts that do not result in changes to current prices should be filed in the applicable "MC" docket. If the revisions include price changes, notice should also be filed in the applicable "CP" docket.

By the Commission.

Ruth Ann Abrams
Acting Secretary